



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

DECISION

FOO/142732

PRELIMINARY RECITALS

Pursuant to a petition filed July 30, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on September 06, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly reduced Petitioner's FoodShare allotment based upon an increase in her unearned income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Alma Lezama

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming

Division of Hearings and Appeals is in a rough

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal to contest an August 1, 2012 reduction in the amount of her FoodShare benefits from \$59 per month to \$16 per month.
3. Petitioner receives \$1155.90 per month in Social Security disability benefits. As of July 2012 Petitioner also began to receive \$137 per week of unemployment compensation benefits. With a

4.3 weeks per month multiplier Petitioner's unemployment benefits amount to \$589.10 per month. This makes Petitioner's total monthly income \$1745.00.

4. Petitioner's household size is one.
5. In determining the amount of Petitioner's FS allotment the agency was \$504 per month for shelter costs. It also allocated \$64.90 per month in excess medical expenses.

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$147 per month for a household of 1 person, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$459.00 on the shelter cost deduction unless a household has an elderly, blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

The terms 'elderly' and 'disabled' are terms with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).
FSH, §3.8.1.1.

In reviewing the agency calculations of Petitioner's FoodShare allotment resulting in the decrease contested here, I do not find any errors.

I do note that at the hearing Petitioner indicated that her shelter expense is \$517 per month. I have reviewed the FoodShare allotment tables, found at *FSH, §8.1.2*, and the \$13 increase in shelter cost would not change the FoodShare allotment.

CONCLUSIONS OF LAW

That the agency correctly determined the amount of Petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

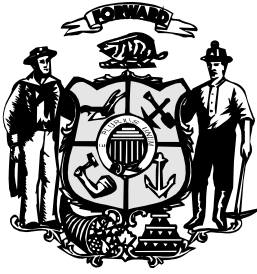
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of September, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Milwaukee Enrollment Services - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 24, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability